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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/553,810	04/21/00	WILSON H	WILSONLESSAC

000545
HANDAL & MOROFSKY
80 WASHINGTON STREET
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WM01/0605

EXAMINER	
AZAD, A	
ART UNIT	**PAPER NUMBER**
2641	6

DATE MAILED: 06/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary	Application No.	Applicant(s)	
	09/553,810	WILSON ET AL.	
	Examiner	Art Unit	
	ABUL K. AZAD	2641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 April 2000* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *3* .
18) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other: .

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of copending Application No. 09/553,811. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art at the time of the invention to indicate an error from the computing device instead of indicating by the user because of less human interaction.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell et al. (US 5,679,001) in view of Baker et al. (US 4,783,803).

As per claim 1, Russell teaches, "a method of speech recognition using a microphone to receive audible sounds input by a user into a first computing device . . . audible sounds corresponding to mispronounced words and phrases," comprising the steps of:

"receiving said audible sounds in the form of electrical output of said microphone" (Fig. 1, element 12);

"converting a particular audible sound into a digital representation of said audible sound" (inherent in this system);

"comparing said digital representation of said particular audible sound to said digital representations of said known audible sounds to determine which said known audible sounds is most likely to be the particular audible sound being compared to the sounds in said database" (col. 10, lines 19-33);

"receiving from said user an indication of the proper alphanumeric representations of said particular audible sound" (col. 14, lines 16-23);

"determining whether said error is a result of a known type or instance of mispronunciation" (col. 15, lines 6-15);

"in response to a determination of error corresponding to a known type or instance of mispronunciation, presenting an interactive training program from said

computer to said user to enable said user to correct such mispronunciation" (col. 15, lines 16-35).

Russell does not explicitly teaches, "outputting as a speech recognition output the alphanumeric representations associated with said audible sound most likely to be said particular audio sound; and receiving an error indicating from said user indicating that there is an error in recognition." However, Baker teaches most likely text representations of the spoken word and indicating the error in the text" (col. 11, lines 11-33). It would have been obvious to one of ordinary skill in the art at the time of the invention to use Baker's teaching in the invention of Russell because Baker teaches a best guess word or one of the close call words is confirmed as the word associated with the given utterance. (col. 11, lines 44-50)

As per claim 2, Russell teaches, "said interactive training program comprises playback of the properly pronounced sound from a database of recorded sound corresponding to proper pronunciations of said mispronounced words and phrases" (col. 15, lines 16-35).

As per claim 3, Russell teaches, "the user is given the option of receiving speech training or train the program to recognize the user's speech pattern." (col. 2, lines 48-56, col. 15, lines 16-35;options are inherent, where Russell teaches, system training session and an interactive training program for the student).

As per claim 4, Russell teaches, "said determination of whether said error is a result of known type or instance of mispronunciation . . . mispronounced words and phrases using a speech recognition engine" (col. 15, lines 6-15).

As per claims 5 and 6, they have similar limitations as claims 3 and 4, so claims 5 and 6 are also rejected for the same reasons.

As per claim 7, it has similar limitations as claims 1-3, so claim 7 is also rejected for the same reasons.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Russell et al. (US 5,679,001) and Baker et al. (US 4,783,803) as applied to claim 7 above, and further in view of Bijl et al. (GB 2 323 693 A).

As per claim 8, Russell and Baker do not teach, "said database has been introducing into said computing device after said generation by speaking and digitizing has been done on another computing device and transferred together with voice recognition and error correcting subroutines to first computing device." However, Bijl (Abstract) has taught this feature. It would have been obvious to one of ordinary skill in the art at the time of the invention to use remote terminal so that one can easily control the voice recognition and correction from a remote location.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abul K. Azad** whose telephone number is **(703) 305-3838.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **William Korzuch**, can be reached at **(703) 305-6137.**

Any response to this action should be mailed to:

Commissioner for Patents

Washington, D.C. 20231

Or faxed to:

(703) 872-9314

(For informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is **(703) 305-4700.**

Abul K. Azad

June 2, 2001

William Korzuch

WILLIAM KORZUCH
SUPERVISORY PATENT EXAMINER
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